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7

8 **BEFORE THE**
9 **BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

12
13 **RICHARD ERNEST HUFFMAN**
1580 Pelham Place
14 Riverside, California 92506

15 CPA License No. 24149

16 Respondent.
17

) Case No. D1-95-25
)
)

) **STIPULATION IN SETTLEMENT**
) **OF ACCUSATION AND**
) **PETITION TO REVOKE**
) **PROBATION**
)
)
)

18
19 It is hereby stipulated by and between the parties to the above-captioned matter
20 and their respective counsel that the following is true:

21 1. Respondent RICHARD ERNEST HUFFMAN (hereinafter respondent
22 "HUFFMAN"), holds Certificate No. 24149 of Certified Public Accountant. Said certificate was
23 issued by the Board of Accountancy on January 28, 1977. The license is in active status and will
24 expire on February 1, 2001.

25 2. On or about August 10, 2000, Carol Sigmann, in her official capacity as the
26 Executive Officer of the Board of Accountancy of the State of California (hereinafter the
27 "Board"), and as Complainant, issued on behalf of the Board a First Amended Accusation and

1 Petition to Revoke Probation, Case No. D1-95-25, setting forth causes for suspension or
2 revocation of the Certified Public Accountant license held by respondent HUFFMAN. The First
3 Amended Accusation and Petition to Revoke Probation in Case No. D1-95-25 was duly and
4 properly served upon respondent. A true and correct copy of the First Amended Accusation and
5 Petition to Revoke Probation is attached hereto as Exhibit "A" and incorporated herein by this
6 reference.

7 3. At all times mentioned herein, complainant Sigmann has been represented by
8 the counsel of the Attorney General of the State of California and is currently represented by and
9 through Timothy L. Newlove, Deputy Attorney General.

10 4. At all times mentioned herein, respondent HUFFMAN has been represented
11 by Raymond S. Finn, Attorney at Law, in this matter.

12 5. Respondent HUFFMAN has read and reviewed the charges and allegations
13 set forth in the First Amended Accusation and Petition to Revoke Probation. Respondent
14 understands that he has a right to a full administrative hearing conducted pursuant to the
15 California Administrative Procedure Act and that, pursuant to said Act, he is entitled to confront
16 and cross-examine witnesses called to testify against him; to the use of process to secure
17 witnesses and documents in his defense; to testify in his own defense and introduce evidence in
18 mitigation; to petition the Board for reconsideration of any decision rendered adverse to him; and
19 to appeal the Decision to the courts of the State of California pursuant to the California Code of
20 Civil Procedure.

21 6. Respondent HUFFMAN herein knowingly and intelligently waives and gives
22 up each of the above-enumerated rights and agrees that the charges and allegations set forth in
23 the First Amended Accusation and Petition to Revoke Probation, which are currently pending
24 before the Board, may be resolved by the instant Stipulation in Settlement of Accusation and
25 Petition to Revoke Probation.

26 7. For purposes of this Stipulation, respondent HUFFMAN neither admits nor
27 denies but does not contest the factual allegations set forth in the First Amended Accusation and

1 Petition to Revoke Probation, Case No. D1-95-25. Respondent understands that the charges and
2 allegations set forth in the First Amended Accusation and Petition to Revoke Probation constitute
3 cause for imposing discipline upon respondent's certificate of Certified Public Accountant,
4 including revocation.

5 8. It is understood by respondent HUFFMAN that, in deciding whether to adopt
6 this Stipulation, the Board may receive oral and written communications from its staff and the
7 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
8 Board or other persons from future participation in this or any other matter affecting respondent.
9 In the event this Stipulation is not adopted by the Board , the agreement will not become
10 effective and may not be used for any purpose, except for this paragraph, which shall remain in
11 effect.

12 9. The parties agree that facsimile copies of this Stipulation, including facsimile
13 signatures of the parties, shall be used with the same force and effect as original signatures.

14 10. In consideration of the foregoing admissions and findings, Complainant and
15 respondent HUFFMAN stipulate and agree that the Board shall, without further notice or formal
16 proceeding, issue and enter the following Disciplinary Order concerning the First Amended
17 Accusation and Petition to Revoke Probation.

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 24149 previously issued to respondent RICHARD ERNEST HUFFMAN is hereby revoked. Said revocation will become effective no sooner than thirty (30) days after the Board's consideration of this matter.

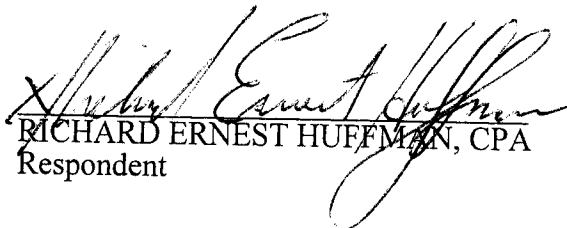
Respondent HUFFMAN fully understands and agrees that, in acting upon any application for licensure, relicensure or reinstatement which respondent ever files in the State of California or in any other State, all of the charges and allegations contained in the First Amended Accusation and Petition to Revoke Probation in Case No. D1-95-25 shall be deemed

1 admitted. Further, at the time of making application for licensure, relicensure or reinstatement,
2 respondent agrees to first reimburse the Board for all investigation and prosecution costs in this
3 matter which is \$9,800 as of November 30, 2000.

4
5 SUBMISSION OF STIPULATION
6

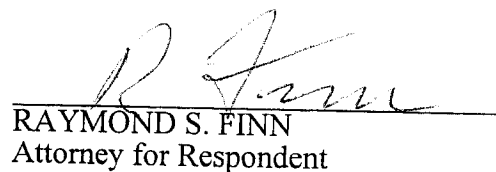
7 I have read and reviewed the terms and conditions of the Stipulation and Order set
8 forth above. I understand that this is an offer in settlement made to the Board of Accountancy,
9 and will not be effective unless and until the Board formally adopts said Stipulation as its
10 Decision in this matter. I expressly acknowledge that if adopted, my certificate of Certified
11 Public Accountant will be revoked. I voluntarily enter into the instant Stipulation and agree to be
12 bound by the terms of the Disciplinary Order.

13
14 DATED: 12/25, 2000.
15

16
17 
18 RICHARD ERNEST HUFFMAN, CPA
19 Respondent

20 I have reviewed this Stipulation in Settlement of Accusation and the provisions
21 therein with my client, Richard Ernest Huffman, who understands and accepts the provisions,
22 terms and conditions of the Stipulation.

23
24 DATED: 1/2, ²⁰⁰¹~~2000~~
25

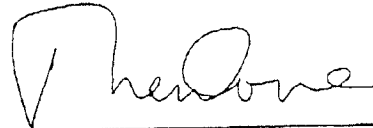
26 
27 RAYMOND S. FINN
Attorney for Respondent

SUBMISSION

The foregoing is submitted to the Board of Accountancy for consideration and adoption as its Decision in Case No. D1-95-25. In the event that the Board rejects the proposed Stipulation in this matter, the admissions of fact and characterizations of law set forth hereinabove shall be null, void and inadmissible in any proceeding involving the parties to it, and the hearing in this matter shall be rescheduled for completion.

DATED: January 8, 2000.

BILL LOCKYER, Attorney General
of the State of California



TIMOTHY L. NEWLOVE
Deputy Attorney General

ADOPTION

The foregoing is adopted as the Decision of the Board of Accountancy in the Matter of the Accusation and Petition to Revoke Probation Against: RICHARD ERNEST HUFFMAN, Case No. D1-95-25, this 2nd day of February, 2001 and shall become effective the 4th day of March, 2001.



Board of Accountancy
State of California

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of the State of California
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10 **BEFORE THE**
11 **BOARD OF ACCOUNTANCY**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation and Petition to)
Revoke Probation Against:)

NO. D1-95-25

14 RICHARD ERNEST HUFFMAN)
15 1580 Pelham Place)
Riverside, CA 92506)
16 License No. CPA 24149)

**FIRST AMENDED
ACCUSATION AND
PETITION TO REVOKE
PROBATION**

17 Respondent.)
18

19
20 Complainant alleges:

21 **PARTIES**

22 1. Carol B. Sigmann ("Complainant") brings this First Amended Accusation
23 and Petition to Revoke Probation solely in her official capacity as the Executive Officer of the
24 California Board of Accountancy, Department of Consumer Affairs.

25 2. On January 28, 1977, the Board of Accountancy issued Certificate of
26 Certified Public Accountant No. 24149 to respondent RICHARD ERNEST HUFFMAN
27 ("Respondent"). The Certificate of Certified Public Accountant was in full and effect at all times

1 relevant to the charges brought herein and will expire on February 1, 2001, unless renewed.

2 JURISDICTION

3 3. This Accusation is brought before the Board of Accountancy ("Board"),
4 under the authority of the following sections of the Business and Professions Code ("Code").

5 4. Section 5100 of the Code states:

6 "After notice and hearing the board may revoke, suspend or refuse to renew any
7 permit or certificate granted under Article 4 (commencing with Section 5070) and Article
8 5 (commencing with Section 5080), or may censure the holder of that permit or certificate
9 for unprofessional conduct, including the following cause:

10 " ...

11 "(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy
12 or in the performance of the bookkeeping operations described in Section 5052."

13 PRIOR DISCIPLINE

14 5. Effective June 17, 1996, in an administrative disciplinary proceeding before
15 the Board of Accountancy entitled In the Matter of the Accusation Against: RICHARD ERNEST
16 HUFFMAN, Case No. AC-95-25, and based upon a Stipulation In Settlement and Decision, the
17 CPA license of respondent HUFFMAN was revoked, the revocation stayed and the license
18 placed on probation to the Board for three years.

19 Subsequently, during January 1999, the respondent requested an extension of his
20 probationary period in order to allow additional time to pass the CPA examination. The Board
21 granted an extension of the respondent's probationary period to October 17, 1999. However, on
22 October 8, 1999, an accusation and petition to revoke probation was filed against the respondent.
23 Under the terms of the respondent's probation in Stipulation In Settlement and Decision, Case
24 No. AC-95-25, respondent's probationary period will continue until the matter is final.

25 6. The terms of probation under the foregoing Order provided, in pertinent part,
26 as follows:

27 A. "OBEY ALL LAWS - Respondent shall obey all federal, California,

1 other U.S. , states and local laws including those rules relating to the practice of
2 public accountancy in California."

3 B. "VIOLATION OF PROBATION - If respondent violates probation
4 in any respect, the Board, after giving respondent notice and an opportunity to be
5 heard, may revoke probation and carry out the disciplinary order that was stayed.
6 If an accusation or petition to revoke probation is filed against respondent during
7 probation, the Board shall have continuing jurisdiction until the matter is final,
8 and the period of probation shall be extended until the matter is final."

9 TAXPAYERS A. AND G. GAZOR

10 7. At all times material herein, A. Gazor and M. Gazor were and are husband
11 and wife. At all times material herein, A. Gazor operated a business which manufactured
12 furniture and M. Gazor was employed as a pharmacist.

13 8. From January 1994 to April 1995, the Gazors retained respondent
14 HUFFMAN to provide payroll and bookkeeping services for the furniture business and to
15 prepare federal and state tax returns for the Gazors.

16 9. During 1994, respondent HUFFMAN provided tax planning advice to the
17 Gazors. As part of said tax planning, respondent did the following:

18 A. Respondent formed a general partnership called Gazor Furniture
19 Systems which was used to report the activities of the furniture business.

20 B. Respondent formed a general partnership called A&M Rentals which
21 was used to lease property to Gazor Furniture Systems and the corporation
22 described hereinbelow.

23 C. Respondent sold the Gazors an existing corporation which
24 respondent renamed Gazor Kitchen and Furniture, Inc.

25 10. In or about April 1995, respondent HUFFMAN prepared and charged for
26 preparing the following federal income tax returns for the Gazors:

27 A. The 1994 U.S. Individual Income Tax Return, Form 1040;

1 B. The 1994 U.S. Partnership Return of Income, Form 1065, for Gazor
2 Furniture Systems.

3 C. The 1994 U.S. Partnership Return of Income, Form 1065, for A&M
4 Rentals.

5 D. The 1993 U.S. Corporation Short Form Income Tax Return, Form
6 1120-A, for Gazor Kitchen and Furniture, Inc.

7 11. In reliance upon the tax planning advice and expertise of respondent
8 HUFFMAN, the Gazors filed the tax returns described hereinabove with the Internal Revenue
9 Service ("IRS").

10 12. In or about July 1995, the Gazors terminated their professional relationship
11 with respondent over a dispute concerning the formation of Gazor Kitchen and Furniture, Inc.

12 13. In or about July 1997, the IRS notified the Gazors that it was going to audit
13 their 1994 Individual Income Tax Return. The audit later expanded and included the four tax
14 returns described in paragraph 10 hereinabove.

15 14. Upon receiving notice of the IRS audit, the Gazors contacted respondent
16 HUFFMAN and requested him to provide the 1994 financial statements and general ledgers
17 which he had prepared for the Gazors. Respondent HUFFMAN was unable to provide such
18 records to the Gazors. Consequently, the Gazors were forced to hire an Enrolled Agent to
19 reconstruct their records for 1994 and prepare general ledgers for review by the IRS Auditor.

20 15. In or about May 1998, the IRS Auditor determined that the 1994 federal tax
21 returns prepared by respondent HUFFMAN for the Gazors failed to properly report the business
22 activity of the furniture business and, further, that the partnerships, Gazor Furniture Systems and
23 A&M Rentals, and the corporation, Gazor Kitchen and Furniture, Inc., were created (1) to avoid
24 self-employment tax and (2) to deduct personal expenses. The IRS Auditor, therefore, collapsed
25 the partnerships and corporation into the Gazor's 1994 Individual Income Tax Return, Form
26 1040, Schedule C. The IRS audit determined that, for the 1994 tax year, the Gazors owed the
27 federal government a corrected tax liability of \$30,201, self-employment tax of \$9,675, and

1 interest of \$12,305, less a \$2,089 IRS adjustment for net withholding taxes (i.e. \$9,622 federal
2 taxes withheld less \$7,533 received by the Gazors), for a total amount of \$50,092. The Franchise
3 Tax Board of the State of California also assessed the Gazors a tax of \$8,832 and interest of
4 \$3,329.05, for a total amount of \$12,161.05.

5 16. Respondent HUFFMAN committed gross negligence in the tax advice that
6 he gave to the Gazors and in the 1994 federal and state tax returns that he prepared for the Gazors
7 in the following particulars:

8 A. Respondent knew, or in the exercise of reasonable care should have
9 known, that A. Gazor operated the furniture business as a sole proprietorship and
10 that the proper method of reporting income and loss from said business was on the
11 taxpayers' Form 1040, Schedule C, as self-employment income

12 B. Respondent knew, or in the exercise of reasonable care should have
13 known, that Gazor Furniture Systems did not have a legitimate business purpose
14 and that the IRS would not recognize said entity as a partnership for the following
15 reasons. There was no written partnership agreement for Gazor Furniture
16 Systems. A. Gazor operated the furniture business as a sole proprietorship while
17 M. Gazor was employed full time as a pharmacist. Except for bookkeeping, M.
18 Gazor was not involved in the furniture business. The Gazors did not intend to
19 join together in the conduct of an enterprise and, in fact, did not conduct Gazor
20 Furniture Systems as an enterprise. In the taxpayers' Form 1040, Schedule C,
21 respondent originated gross receipts for the furniture business and reduced the
22 income by all but \$1.00 through the "returns and allowance" expense. In the
23 Form 1065 for Gazor Furniture Systems, respondent reclassified the gross receipts
24 for the furniture business and improperly deducted numerous personal expenses
25 against gross income.

26 C. Respondent knew, or in the exercise of reasonable care should have
27 known, that A&M Rentals did not have a legitimate business purpose and that the

1 IRS would not recognize said entity as a partnership for the following reasons.

2 There was no written partnership agreement for A&M Rentals. M. Gazor was not
3 involved in the activities of A&M Rentals. The Gazors did not have rental
4 property. There was no verifiable rental income. The Gazors did not intend to
5 join together in the conduct of an enterprise and, in fact, did not conduct A & M
6 Rentals as an enterprise. In the Form 1065 for A&M Rentals, respondent
7 improperly made deductions for the taxpayers' personal living (office-in-the-
8 home) expenses and personal vehicles, and passed these losses to the Gazor's
9 Form 1040 return.

10 D. Respondent knew, or in the exercise of reasonable care should have
11 known, that the Gazors needed to compute a self-employment tax from the
12 operation of the furniture business on their Form 1040. However, respondent
13 used the Form 1065 for A&M Rentals to reclassify income from the furniture
14 business and report said income as rental activity in order to avoid the self-
15 employment tax.

16 E. Respondent knew, or in the exercise of reasonable care should have
17 known, that the IRS would not recognize that Gazor Kitchen and Furniture, Inc.
18 served a legitimate business purpose for the following reasons. A. Gazor operated
19 the furniture business as a sole proprietorship. Respondent sold the taxpayers an
20 existing corporation. There were no corporate records. The business receipts for
21 the furniture business were already reflected on the Form 1040 of the taxpayers
22 and the Form 1065 of Gazor Furniture Systems.

23 F. Respondent knew, or in the exercise of reasonable care should have
24 known, that, in the event the IRS did not recognize Gazor Furniture Systems,
25 A&M Rentals and Gazor Kitchen and Furniture, Inc. as serving a legitimate
26 business purpose, there could be an audit resulting in an upward adjustment of the
27 Gazors' 1994 tax liability. Respondent failed to advise the taxpayers of this

1 possibility.

2 G. The combined effect of respondent's tax advice to the Gazors and the
3 preparation of their 1994 tax returns was an adjusted tax liability to both the
4 federal and state governments which cost the taxpayers \$62,253.

5 TAXPAYERS J. AND T. FAIRFIELD

6 17. At all times material herein, J. Fairfield and T. Fairfield were and are
7 husband and wife. At all times material herein, J. Fairfield was a golf professional and T.
8 Fairfield was a real estate agent.

9 18. In 1994, the Fairfields retained respondent HUFFMAN to prepare their
10 federal and state taxes for 1993. For the 1993 returns, respondent recommended and formed a
11 general partnership called J & T Enterprises on behalf of the Fairfields.

12 19. On or about September 30, 1994, respondent HUFFMAN recommended
13 that the Fairfields create a Nevada corporation in order to help reduce individual income taxes.
14 Subsequently, respondent sold the Fairfields a Nevada corporation which was called Golf
15 Vacations By T.J. for \$1,600. In the tax returns for 1994 and 1995 described hereinbelow,
16 respondent made Golf Vacations By T.J. a 25% partner of J & T Enterprises. However, as a 25%
17 partner Golf Vacation by T.J. would receive 98% of the company's profits or losses.

18 20. In or about March 1995, respondent HUFFMAN prepared and charged for
19 preparing the following federal income tax returns for the Fairfields:

20 A. The 1994 U.S. Individual Income Tax Return, Form 1040;

21 B. The 1994 U.S. Partnership Return of Income, Form 1065, for J & T
22 Enterprises; and

23 C. The 1994 U.S. Corporation Short-Form Income Tax Return, Form
24 1120-A, for Golf Vacations By T.J.

25 21. In reliance upon the tax planning advice and expertise of respondent
26 HUFFMAN, the Fairfields filed the above-described 1994 returns with the IRS.

27 22. In or about March 1996, respondent HUFFMAN prepared and charged for

1 preparing the following federal income tax returns fore the Fairfields:

2 A. The 1995 U.S. Individual Income Tax Return, Form 1040;

3 B. The 1995 U.S. Partnership Return of Income, Form 1040, for J & T
4 Enterprises; and

5 C. The 1995 U.S. Corporation Short-Form Income Tax Return, Form
6 1120-A, for Golf Vacations By T.J.

7 23. In reliance upon the tax planning advice and expertise of respondent, the
8 Fairfields filed the above-described 1995 returns with the IRS.

9 24. During 1997, the IRS notified the Fairfields that it was going to audit their
10 1994 federal income tax returns. The audit later expanded and included the Fairfields' 1995
11 federal tax returns.

12 25. In or about May 1998, the IRS Auditor determined that the 1994 and 1995
13 federal tax returns prepared by respondent HUFFMAN for the Fairfields failed to properly report
14 self-employment income for J. and T. FAIRFIELD. The IRS Auditor also determined that J & T
15 Enterprises was not a valid partnership and was created to circumvent payment of self-
16 employment tax and, further, that Golf Vacations By T.J. was formed to avoid payment of
17 California state tax. The IRS Auditor also determined that the aggregate gross income reported
18 by Golf Vacations By T.J. was significantly overstated for the 1994 tax year. The IRS Auditor,
19 therefore, collapsed the partnership and the Nevada corporation into the Fairfield's Individual
20 Income Tax Return, Form 1040, Schedule C, for the tax years of 1994 and 1995. The IRS audit
21 found that the Fairfields owed a corrected tax liability, which includes interest, of \$8,504.47 for
22 the 1994 tax year and approximately \$10,600 for the 1995 tax year.

23 26. Respondent HUFFMAN committed gross negligence in the tax advice that
24 he gave to the Fairfields and the 1994 and 1995 federal income tax returns that he prepared for
25 the Fairfields in the following particulars:

26 A. Respondent knew, or in the exercise of reasonable care should have
27 known, that J. Fairfield in his vocation as a golf professional and T. Fairfield in

1 her vocation as a real estate agent were sole proprietors and that the proper
2 method of reporting income and loss for said taxpayers was on Form 1040,
3 Schedule C, as self-employment income.

4 B. Respondent knew, or in the exercise of reasonable care should have
5 known, that J & T Enterprises did not have a legitimate business purpose and that
6 the IRS would not recognize said entity as a partnership for the following reasons.
7 There was no written partnership agreement for J & T Enterprises. The Fairfields
8 did not keep books and records for said partnership. The Fairfields did not intend
9 to join together in the conduct of an enterprise and, in fact, did not conduct J & T
10 Enterprises as an enterprise. In the Form 1040, Schedule C, for the 1994 and
11 1995 tax years, respondent reported gross income for J and T. Fairfield, reduced
12 the income by all but \$1.00 through the "returns and allowance" expense, and
13 transferred the income to J & T Enterprises and Golf Vacations By T.J.

14 C. Respondent knew, or in the exercise of reasonable care should have
15 known, that the IRS would not recognize that Golf Vacations By T.J. served a
16 legitimate business purpose for the following reasons. The Fairfields did not
17 maintain books and records for the corporation. The corporation had a Nevada
18 address and the Fairfields resided in California. The Fairfields never intended to
19 conduct Golf Vacations By T.J. as an enterprise and, in fact, did not conduct said
20 corporation as a legitimate business. Respondent created the Nevada corporation
21 solely for the purpose of allowing the Fairfields to avoid payment of California
22 franchise tax.

23 D. Respondent knew, or in the exercise of reasonable care should have
24 known that, in the event that the IRS did not recognize J & T Enterprises and Golf
25 Vacations By T.J. as serving a legitimate business purpose, there could be an
26 audit of the Fairfields' tax returns resulting in an upward adjustment in their tax
27 liability. Respondent failed to advise the taxpayers of this possibility.

1 E. The combined effect of respondent's tax advice to the Fairfields and
2 the preparation of their 1994 and 1995 federal tax returns was an adjusted tax and
3 interest liability for both years which cost the taxpayers approximately \$19,104.

4 TAXPAYER D. ENEIM

5 27. At all times material herein, D. Eneim was a single mother who earned her
6 living as an Amway distributor.

7 28. In April 1996, respondent HUFFMAN prepared the federal and state
8 income tax returns for Eneim. At that time, respondent recommended and created a partnership
9 entitled D.E.A. Enterprises in order to minimize the tax liability of Eneim. Respondent also
10 prepared and charged for preparing the following federal tax returns for Eneim:

11 A. The 1995 U.S. Individual Income Tax Return, Form 1040; and

12 B. The 1995 U.S. Partnership Return of Income, Form 1040, for D.E.A.
13 Enterprises.

14 29. In reliance upon the tax planning advice and expertise of respondent
15 HUFFMAN, Eneim filed the above-described 1995 returns with the IRS.

16 30. In April 1997, respondent HUFFMAN prepared the federal and state tax
17 returns for Eneim, including the following federal returns:

18 A. The 1996 U.S. Individual Income Tax Return, Form 1040; and

19 B. The 1996 U.S. Partnership Return of Income, Form 1065, for D.E.A.
20 Enterprises.

21 31. In reliance upon the tax planning advice and expertise of respondent
22 HUFFMAN, Eneim filed the above-described 1996 returns with the IRS.

23 32. On or about March 3, 1998, the IRS notified Eneim that it was going to
24 audit the above-described 1995 and 1996 partnership returns of D.E.A. Enterprises.

25 33. In or about June 1998, respondent HUFFMAN advised Eneim that she
26 should cease filing returns under D.E.A. Enterprises and, instead, create a trust in order to
27 minimize her tax liability. At the same time, respondent drafted a Living Trust Agreement for

1 Eneim, but the agreement was never executed.

2 34. On or about August 5, 1998, respondent HUFFMAN prepared Amended
3 1996 federal and state partnership returns for D.E.A. Enterprises. At the same time, respondent
4 prepared the following 1997 federal tax returns for Eneim:

5 A. The 1997 U.S. Individual Income Tax Return, Form 1040; and

6 B. The 1997 U.S. Income Tax Return for Estates and Trusts, Form
7 1041, for the Eneim Trust.

8 35. In reliance upon the tax planning advice and expertise of respondent
9 HUFFMAN, Eneim filed the above-described amended returns and 1997 returns with the IRS.

10 36. Subsequent to the filing of the above-described 1997 federal tax returns,
11 the IRS expanded its audit of Eneim to include 1997 return for the Eneim Trust.

12 37. In May 1999, the IRS Auditor determined that adjustments were necessary
13 for Eneim's 1995, 1996 and 1997 taxes. The IRS Auditor did not recognize the partnership or
14 the trust created by respondent HUFFMAN. The adjustments resulted in an increased net tax of
15 \$2,599; however, Eneim was provided refunds for the tax years 1995, 1996 and 1997 because
16 she was entitled to received Earned Income Credit for said years.

17 38. Respondent HUFFMAN committed gross negligence in the tax advise that
18 he gave to Eneim and the 1995, 1996 and 1997 tax returns that he prepared for Eneim in the
19 following particulars:

20 A. Respondent knew, or in the exercise of reasonable care should have
21 known, that D.E.A. Enterprises was not a legitimate partnership and that the IRS
22 would not recognize said entity as a partnership for the following reasons. There
23 was no written partnership agreement for D.E.A. Enterprises. C. Eneim, listed as
24 one of the partners of D.E.A. Enterprises, was the teenage daughter of D. Eneim
25 and provided limited assistance in her mother's Amway activities. There were no
26 formal records showing the existence of an actual partnership. D. Eneim and C.
27 Eneim did not intend to join together in the conduct of an enterprise and, in fact,

1 did not conduct D.E.A. Enterprises as an enterprise.

2 B. In preparing the 1995 and 1996 Partnership tax returns for D.E.A.
3 Enterprises, respondent listed deductions that either did not exist or that inflated
4 the expenses provided by Eneim.

5 C. Respondent knew, or in the exercise of reasonable care should have
6 known, that the IRS would not recognize the Eneim Trust for the following
7 reasons. The Eneim Trust had no economic substance. The Eneim Trust was not
8 legitimate because Eneim maintained control over the property and income placed
9 in the trust and did not change how said property and income was treated. The
10 Eneim Trust was simply a device to minimize taxes and was not formed for the
11 purpose of protecting and conserving trust property for beneficiaries.

12 FIRST CAUSE FOR DISCIPLINE

13 (5100(c) - Gross Negligence)

14 39. Respondent is subject to disciplinary action under Business and Professions
15 Code § 5100(c), which provides that unprofessional conduct under the Accountancy Act includes
16 gross negligence in the practice of public accountancy, in that respondent committed gross
17 negligence in the tax advice and tax return preparation for the Gazors, the Fairfields and D.
18 Eneim, as described in paragraphs 16, 26 and 38 hereinabove.

19 40. Grounds exist for revoking probation and reimposing the order of
20 revocation of respondent HUFFMAN's Certificate of Certified Public Accountant in that
21 respondent failed to comply with the probation term that required him to obey all laws through
22 his conduct towards D. Eneim, as described in paragraph 38 hereinabove.

23 DISCIPLINE CONSIDERATIONS

24 41. Not as an independent ground for disciplinary action, but an enhancement
25 of any discipline that may be imposed in this action, Complainant alleges that respondent
26 HUFFMAN previously has been found guilty of unprofessional conduct and disciplined by the
27 Board in Case No. AC-95-25, as described in paragraph 5 hereinabove. The discipline in said

1 case was based upon a finding that respondent had violated Business and Professions Code
2 § 5100(c) (gross negligence) and Business and Professions Code § 5062 (reports shall conform to
3 professional standards) in the preparation of audits for school districts.

4 COST RECOVERY

5 42. Business and Professions Code § 5107(a) provides that the Executive
6 Officer of the Board may request the Administrative Law Judge, as part of the Proposed Decision
7 in a disciplinary proceeding, to direct any holder of a permit or certificate found guilty of
8 unprofessional conduct, inter alia, in violation of Business and Professions Code § 5100(c), to
9 pay to the Board all reasonable costs of investigation and prosecution of the case including, but
10 not limited to, attorneys' fees. Section 5107(a) further provides that the Board shall not recover
11 costs incurred at the administrative hearing.

12 43. In the event that the Administrative Law Judge finds that respondent
13 HUFFMAN has committed unprofessional conduct in violation of Business and Professions
14 Code § 5100(c), Complainant requests that the Proposed Decision provide for the recovery of all
15 reasonable costs of investigation and prosecution of the case, according to proof, pursuant to
16 Business and Professions Code § 5107.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Board of Accountancy issue a decision:

20 1. Revoking, suspending or otherwise imposing discipline upon Certified
21 Public Accountant Certificate Number 24149, issued to RICHARD ERNEST HUFFMAN.

22 2. Revoking probation and reimposing the order of revocation upon Certified
23 Public Accountant Certificate Number 24149, issued to RICHARD ERNEST HUFFMAN.

24 3. Awarding the Board costs as provided by statute; and

25 ///

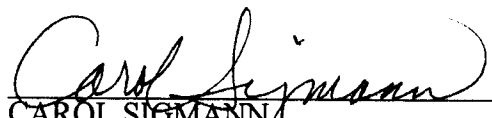
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4. Taking such other further action as deemed necessary and proper.

DATED: August 10, 2000



CAROL SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

Complainant

DANIEL E. LUNGREN, Attorney General
of the State of California
MARGARET ANN LAFKO,
Deputy Attorney General, State Bar No. 105921
Department of Justice
110 West A Street, Suite 1100
Post Office Box 85266
San Diego, California 92186-5266
Telephone: (619) 645-2064

Attorneys for Complainant

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	NO. AC-95-25
Against:)	
)	L-9509161
RICHARD E. HUFFMAN)	
1580 Pelham Place)	<u>STIPULATION IN</u>
Riverside, CA. 92506)	<u>SETTLEMENT AND DECISION</u>
)	
Certified Public Accountant No.)	
24149)	
)	
Respondent.)	
)	
HUFFMAN & CO., ACCOUNTANCY)	
CORPORATION)	
212 East Grand, #1)	
Corona, CA. 91719)	
)	
Certificate No. COR 2204)	
)	
Respondent.)	

Complainant, Carol B. Sigmann, Executive Officer of the
Board of Accountancy, Department of Consumer Affairs of the State
of California, by and through her attorney, Daniel E. Lungren,
Attorney General of the State of California, by Margaret Ann
Lafko, Deputy Attorney General, and RICHARD E. HUFFMAN

\\

1 ("respondent"), by and through his attorney Raymond Finn Esq.,
2 hereby stipulate as follows:

3 1. The Board of Accountancy, Department of Consumer
4 Affairs of the State of California ("Board"), acquired
5 jurisdiction over respondent by reason of the following:

6 A. Respondent was duly served with a copy of the
7 Accusation, Statement to Respondent, Request for Discovery, Form
8 Notice of Defense and copies of Government Code sections 11507.5,
9 11507.6 and 11507.7 as required by section 11503 and 11505, and
10 respondent timely filed a Notice of Defense within the time
11 allowed by section 11506 of the Code.

12 B. Respondent has received and read the Accusation
13 which is presently on file as Case No. AC-95-25, before the
14 Board. Respondent understands the nature of the charges alleged
15 in the Accusation and that the charges and allegations constitute
16 cause for imposing discipline upon respondent's license to
17 practice accountancy which was issued by the Board of
18 Accountancy.

19 2. Respondent and his counsel are aware of each of
20 respondent's rights, including the right to a hearing on the
21 charges and allegations, the right to confront and cross-examine
22 witnesses who would testify against respondent, the right to
23 present evidence in his favor and call witnesses on his behalf,
24 or to testify, his right to contest the charges and allegations,
25 and other rights which are accorded to respondent pursuant to the
26 California Administrative Procedure Act (Gov. Code, § 11500 et
27 seq.), including the right to seek reconsideration, review by the
28 superior court, and appellate review.

1 3. Respondent freely and voluntarily waives each and
2 every one of the rights set forth in paragraph 2.

3 4. Respondent understands that in signing this
4 stipulation rather than contesting the accusation, he is enabling
5 the Board of Accountancy of the State of California to issue the
6 following order without further process.

7 5. Admissions made by respondent herein are for
8 purposes of this proceeding, for any other disciplinary
9 proceedings by the Board, and for any petition for reinstatement,
10 reduction of penalty, or application for relicensure, and shall
11 have no force or effect in any other case or proceeding.

12 6. It is understood by respondent that, in deciding
13 whether to adopt this stipulation, the Board may receive oral and
14 written communications from its staff and the Attorney General's
15 office. Communications pursuant to this paragraph shall not
16 disqualify the Board or other persons from future participation
17 in this or any other matter affecting respondent. In the event
18 this settlement is not adopted by the Board, the stipulation will
19 not become effective and may not be used for any purpose, except
20 for this paragraph, which shall remain in effect.

21 7. Respondent admits that he is guilty of violating
22 the Business and Professions Code, as alleged in paragraphs 5
23 through 13 of the Accusation, a copy of which is attached to this
24 stipulation as Exhibit A.

25 8. Based upon the foregoing, it is stipulated and
26 agreed that the Board may issue the following as its decision in
27 this case.

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1 whenever designated by the Administrative Committee, provided
2 notification of such review is accomplished in a timely manner.

3 6. COMPLY WITH CITATIONS

4 Respondent shall comply with all final orders resulting
5 from citations issued by the Board of Accountancy.

6 7. TOLLING OF PROBATION FOR OUT-OF-STATE

7 RESIDENCE/PRACTICE

8 In the event respondent should leave California to
9 reside or practice outside this state, respondent must notify the
10 Board in writing of the dates of departure and return. Periods
11 of non-California residency or practice outside the state shall
12 not apply to reduction of the probationary period.

13 8. TOLLING OF PROBATION CONDITIONS/CESSATION OF

14 PRACTICE

15 In the event respondent fails to satisfactorily
16 complete any provision of the order of probation, which failure
17 results in the cessation of practice, all other provisions of
18 probation other than the quarterly report requirements,
19 examination requirements, education requirements, and
20 Administrative Committee appearances, shall be held in abeyance
21 until respondent is permitted to resume practice. All provisions
22 of probation shall commence on the effective date of resumption
23 of practice. Periods of cessation of practice will not apply to
24 the reduction of the probationary period.

25 9. VIOLATION OF PROBATION

26 If respondent violates probation in any respect, the
27 Board, after giving respondent notice and an opportunity to be
28 heard, may revoke probation and carry out the disciplinary order

1 that was stayed. If an accusation or petition to revoke
2 probation is filed against respondent during probation, the Board
3 shall have continuing jurisdiction until the matter is final, and
4 the period of probation shall be extended until the matter is
5 final.

6 10. PEER OR QUALITY REVIEW

7 Respondent's firm shall undergo peer or quality review
8 within eighteen (18) months of the effective date of the Board's
9 order; the resulting review reports and respondent's comments
10 shall be provided to the Committee within thirty (30) days of the
11 reports' issue date.

12 11. CPA EXAM

13 Respondent shall take and pass the audit section of the
14 CPA examination during probation.

15 If respondent fails to pass said examination within the
16 time period provided or within two attempts, respondent shall so
17 notify the Board and shall cease practice until respondent takes
18 and successfully passes said exam, has submitted proof of same to
19 the Board, and has been notified by the Board that he may resume
20 practice. Failure to pass the required examination no later than
21 100 days prior to the termination of probation shall constitute a
22 violation of probation.

23 12. CONTINUING EDUCATION COURSES

24 Respondent shall complete 80 hours of professional
25 education courses as specified by the Administrative Committee,
26 as may be appropriate at the time of respondent's first
27 appearance before the Administrative Committee. The professional
28 education courses shall be completed within a period of time

1 designated by the Administrative Committee, which time-frame
2 shall be incorporated as a condition of this probation. Forty
3 hours of these courses shall be in addition to continuing
4 education requirements for relicensing.

5 Failure to satisfactorily complete the required courses
6 as scheduled or failure to complete same no later than 100 days
7 prior to the termination of probation shall constitute a
8 violation of probation.

9 13. AUDIT REVIEW

10 During the period of probation, all audits performed by
11 respondent shall be reviewed by another licensee (CPA) prior to
12 release. The reviewer shall be designated by respondent, subject
13 to approval of the Administrative Committee.

14 14. COST REIMBURSEMENT

15 Respondent shall reimburse the Board \$15,127.91 for its
16 investigation and prosecution costs. This payment shall be made
17 in quarterly installments; the final balance shall be paid in
18 full six (6) months before probation is scheduled to terminate.

19 15. COMPLETION OF PROBATION

20 Upon successful completion of probation, respondent's
21 license will be fully restored.

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1 We concur in the stipulation and order.

2 DATED: April 2, 1996

3 DANIEL E.-LUNGREN, Attorney General
4 of the State of California

5 Margaret Ann Lafko
6 Margaret Ann Lafko
7 Deputy Attorney General

8 Attorneys for Complainant

9 DATED: 3/25/96

10 Raymond Finn
11 Raymond Finn
12 15760 Ventura Blvd. #700
13 Encino, CA. 91436
14 818-981-0870

15 Attorney for Respondent

16 I have carefully read and fully understand the
17 stipulation and order set forth above. I have discussed the
18 terms and conditions set forth in the stipulation and order with
19 my attorney Raymond Finn, Esq. I understand that in signing this
20 stipulation I am waiving my right to a hearing on the charges set
21 forth in the Accusation on file in this matter. I further
22 understand that in signing this stipulation the Board may enter
23 the foregoing order placing certain requirements, restrictions
24 and limitations on my right to practice public accountancy in the
25 State of California.

26 DATED: 3/20/96

27 Richard E. Huffman
28 RICHARD E. HUFFMAN
Respondent

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DECISION AND ORDER
OF THE BOARD OF ACCOUNTANCY

The foregoing Stipulation and Order, in No. AC-95-25,
is hereby adopted as the Order of the Board of Accountancy of the
State of California. An effective date of June 17, 1996, has
been assigned to this Decision and Order.

Made this 17 day of May, 1996.

Rosam J. San

FOR THE BOARD OF ACCOUNTANCY

MAL:mal

035411110-SD95AD0226

DANIEL E. LUNGREN, Attorney General
of the State of California
MARGARET A. LAFKO [State Bar No. 105921]
Deputy Attorney General
Department of Justice
110 West A Street, Suite 1100
Post Office Box 85266
San Diego, California 92186-5266
Telephone: (619) 645-2064

Attorneys for Complainant

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation) NO. AC-95-25
Against:)

RICHARD ERNEST HUFFMAN) ACCUSATION
1580 Pelham Place)
Riverside, CA 92506)

Certificate No. 24149)

Respondent.)

HUFFMAN & CO, ACCOUNTANCY)
CORPORATION)
212 East Grand, #I)
Corona, CA 91719)

Certificate No. COR 2204)

Respondent.)

Complainant Carol B. Sigmann, as cause for disciplinary
action, alleges:

PARTIES

1. Complainant is the Executive Officer of the
California State Board of Accountancy ("Board") and makes and
files this accusation solely in her official capacity.

///

1 License Status

2 2. On or about January 28, 1977, the Board issued
3 Certificate No. 24149 (Certified Public Accountant) to Richard
4 Ernest Huffman ("respondent"). That certificate expired on
5 February 1, 1995 and was renewed on April 13, 1995. It will
6 expire on January 31, 1997, if not renewed.

7 3. On or about July 16, 1982, the Board issued
8 Certificate No. COR 2204 (Accountancy Corporation) to Richard E.
9 Huffman Accountancy, a professional corporation. The name was
10 later changed to Huffman & Co., Accountancy Corporation
11 ("respondent corporation"). That certificate expired in June,
12 1990 and was renewed in March, 1993. The certificate expired
13 again in June, 1994 and was renewed in May, 1995. It is
14 currently valid and will expire in June, 1996, if not renewed.

15 JURISDICTION

16 4. This accusation is made in reference to the
17 following statutes of the California Business and Professions
18 Code ("Code"):

19 a. Section 5100 provides, in part, that the Board may
20 revoke, suspend or refuse to renew any permit or certificate
21 issued by the Board, or may censure the holder of any such
22 permit or certificate for unprofessional conduct.

23 b. Section 5107 provides, in part, that the Executive
24 Officer of the Board may request the administrative law
25 judge, as part of the proposed decision in a disciplinary
26 proceeding, to direct any holder of a permit or certificate
27 found guilty of unprofessional conduct in violation of
28 section 5100(c) to pay to the Board all reasonable costs of

1 investigation and prosecution of the case, including, but
2 not limited to, attorneys' fees. The Board shall not
3 recover costs incurred at the administrative hearing.

4 c. Section 5070.6 provides, in part, that an expired
5 license may be renewed at any time within five years after
6 its expiration.

7 d. Section 118(b) provides that the "suspension,
8 expiration, or forfeiture by operation of law of a license
9 issued by a board in the department, or its suspension,
10 forfeiture, or cancellation by order of the board or by
11 order of a court of law, or its surrender without the
12 written consent of the board, shall not, during any period
13 in which it may be renewed, restored, reissued, or
14 reinstated, deprive the board of its authority to institute
15 or continue a disciplinary proceeding against the licensee
16 upon any ground provided by law or to enter an order
17 suspending or revoking the license or otherwise taking
18 disciplinary action against the licensee on any such
19 ground."

20 e. Section 5100(c) provides, in part, that
21 unprofessional conduct includes, but is not limited to,
22 dishonesty, fraud or gross negligence in the practice of
23 public accountancy.

24 f. Section 5100(f) provides that unprofessional
25 conduct includes, but is not limited to: "Willful violation
26 of this chapter or any rule or regulation promulgated by the
27 board under the authority granted under this chapter."
28 ///

1 g. Section 5156 provides, in part, that an
2 accountancy corporation "shall not do or fail to do any act
3 the doing of which or the failure to do which would
4 constitute unprofessional conduct." The Board shall have
5 the same powers of suspension, revocation and discipline
6 against an accountancy corporation as against an individual.

7 h. Section 5062 provides that: "A licensee shall
8 issue a report which conforms to professional standards upon
9 completion of a compilation, review or audit of financial
10 statements."

11 i. Section 5050 provides, in part, that no person
12 shall practice accountancy in this state unless the person
13 is the holder of a valid permit to practice accountancy
14 issued by the Board.

15 j. Section 5035 provides, in part, that for purposes
16 of the Accountancy Act, the word "person" includes an
17 individual, partnership, firm or corporation.

18 k. Section 5152.1 provides that each accountancy
19 corporation shall renew its permit to practice biennially
20 and shall pay the fee required by the Board.

21 CHARGES AND ALLEGATIONS

22 5. Respondent and respondent corporation are subject
23 to disciplinary action pursuant to Code sections 5100 and 5156
24 based on the following:

25 Coachella Valley Unified School District Audit

26 6. In or about 1990, respondent, on his own behalf
27 and/or as an agent of respondent corporation, audited the
28 financial statements of Coachella Valley Unified School District

1 for the year ended June 30, 1990 and prepared an auditor's
2 report. Respondent's conduct in performing the audit and
3 documenting the audit in his working papers constituted an
4 extreme departure from the standard of practice in the following
5 respects:

6 Respondent failed to obtain an adequate
7 understanding of the internal control structure and failed
8 to test those internal controls to evaluate whether they
9 were operating properly and/or failed to document these
10 things properly in his working papers for the audit. As a
11 result, respondent failed to detect errors in the financial
12 statements and failed to note deficiencies in internal
13 control structure which, when a subsequent audit was
14 performed by other accountants, ultimately required the
15 restatement of the ending balances reported by respondent
16 and required several prior period adjustments to be made.

17 Montebello Unified School District

18 7. In or about 1991, respondent, on his own behalf
19 and/or as an agent of respondent corporation, audited the
20 financial statements of Montebello Unified School District for
21 the year ended June 30, 1991 and prepared an auditor's report.
22 Respondent's conduct in performing the audit and documenting the
23 audit in his workpapers constituted an extreme departure from the
24 standard of practice in the following respects:

25 Respondent failed to obtain sufficient
26 confirmation of a \$650,000 accounts receivable from the
27 California Department of Education and/or failed to document

28 ///

1 it in his workpapers. The school district wrote off the
2 \$650,000 receivable the following year.

3 Eureka School District and Eureka High School District

4 8. In or about 1993, respondent, on his own behalf
5 and/or as an agent of respondent corporation, audited the
6 financial statements of Eureka School District and Eureka High
7 School District for the year ended June 30, 1993. Respondent's
8 conduct in performing the audits and documenting the audits in
9 his working papers constituted an extreme departure from the
10 standard of practice in the following respects:

11 a. Respondent calculated an incorrect materiality
12 planning figure for the combined and combining financial
13 statements of Eureka School District, basing his
14 calculations on the combined fund level instead of the
15 individual fund levels. As a result, the materiality figure
16 was too high, and many items that should have been examined
17 or tested because they were material were not evaluated by
18 respondent.

19 b. In at least two instances, respondent failed
20 to examine or to document sufficient evidence in his work
21 papers to show that he had examined items with a greater
22 dollar amount than the materiality figure he had calculated.

23 c. Respondent failed to perform or document the
24 performance of testing to make sure the school districts
25 were complying with legal requirements related to their
26 receipt of funds from the government for Educationally
27 Deprived Children.

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1 d. The client representation letter from Eureka
2 School District had numerous defects including outdated
3 terminology, incorrect dates and the omission of management
4 representations related to state and federal expenditures.

5 e. Respondent received an attorney response letter
6 related to Eureka School District that discussed a potential
7 claim for an amount in excess of the materiality figure.
8 However, respondent either failed to perform a qualitative
9 evaluation of the claim or failed to record evidence of such
10 an evaluation in his workpapers.

11 Other

12 9. Between June 2, 1990 and March 8, 1993, respondent
13 corporation's license was expired and not valid. Despite this,
14 respondent continued to practice in the name of the corporation.

15 10. Respondent's conduct, as more particularly set
16 forth in paragraphs 5 - 8 above, constituted gross negligence in
17 violation of Code section 5100(c) in that respondent made
18 numerous extreme departures from the standard of practice in his
19 audits and working papers.

20 11. Respondent's conduct, as more particularly set
21 forth in paragraphs 5 - 8 above, violated Code sections 5100(f)
22 and 5062 in that respondent issued reports which did not conform
23 to professional standards upon completion of the audits of
24 financial statements for the entities listed above.

25 12. Respondent's conduct, as more particularly set
26 forth in paragraphs 5 - 8 above, constituted unprofessional
27 conduct in violation of Code section 5100 in that respondent made

28 ///

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2 and working papers.

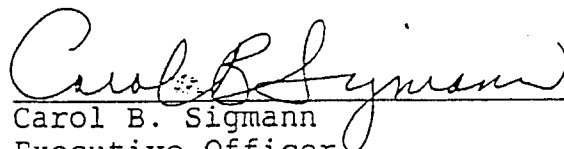
3 13. Respondent corporation's conduct, as more
4 particularly set forth in paragraph 9 above, violated Code
5 sections 5156 and 5152.1 in that respondent corporation practiced
6 accountancy during a time in which its corporate license was
7 expired in violation of Code section 5050.

8 PRAYER

9 WHEREFORE, complainant requests that the Board hold a
10 hearing on the matters alleged herein, and that following said
11 hearing, the Board issue a decision:

- 12 1. Revoking or suspending Certificate Number 24149,
13 heretofore issued to respondent;
- 14 2. Revoking or suspending Certificate Number COR
15 2204, heretofore issued to respondent corporation;
- 16 3. Directing respondents and each of them to pay to
17 the Board a reasonable sum for its investigative
18 and enforcement costs of this action; and
- 19 4. Taking such other and further action as the Board
20 deems appropriate to protect the public health,
21 safety and welfare.

22
23 DATED: August 1, 1995

24
25 

26 Carol B. Sigmann
27 Executive Officer
28 Board of Accountancy
Department of Consumer Affairs
State of California

Complainant

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